

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CLAYTON L. HOWARD,
Petitioner,

Case No. 3:11-CV-00447-HU

v.

ORDER

MARK NOOTH,
Respondent.

MARSH, Judge.

Magistrate Judge Dennis J. Hubel filed his Findings and Recommendation on January 23, 2013. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

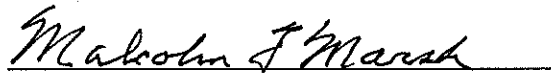
When a party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report. See 28 U.S.C. § 636(b)(1)(B); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981); accord Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009);

United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*).

Petitioner has filed timely objections. Therefore, I have given the file of this case a *de novo* review. I find no error. Accordingly, I ADOPT the Findings and Recommendation (#50). Petitioner's second amended habeas petition (#42) is DENIED, and this proceeding is DISMISSED, with prejudice. Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED. See 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 6 day of March, 2013


Malcolm F. Marsh
United States District Judge